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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,011	06/22/2005	Herbert Baltes	48679	1631
1609 7590 05/05/2009 ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P. 1300 19TH STREET, N.W. SUITE 600 WASHINGTON,, DC 20036				
EXAMINER WALTERS, RYAN J				
ART UNIT 3726		PAPER NUMBER		
MAIL DATE 05/05/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/540,011

Applicant(s)

BALTES ET AL.

Examiner

RYAN J. WALTERS

Art Unit

3726

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 11-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/DAVID P. BRYANT/
Supervisory Patent Examiner, Art Unit 3726

Continuation of 11. does NOT place the application in condition for allowance because: 1. Applicant argues on page 8 that the 2/10/2009 office action was improperly made final since new grounds of rejections were raised which were necessitated by arguments alone and not by claim amendments or the submission of new evidence.

-However, note that the final rejection is necessitated by the claim amendments filed 8/4/2008; the 2/10/2009 final rejection is replacing the previous final rejection (sent 11/12/2008).

2. Applicant argues on pages 11-12 that the claim recites that each of the axial outer circumferential contact surface and the axial outer surface portion are "of the first cover component" and thus part of the first cover component. In conjunction with this argument applicant argues that the Hasegawa contact surface is perpendicular to the longitudinal axis, not at an acute angle and the Hasegawa angle surface on the tool will not satisfy claim 11, since the tool surface is not on the cover component.

-However, using the broadest reasonable interpretation of the claims, the claim only positively recites that the axial outer surface portion is "of the first cover component"; the claims only require that the axial outer circumferential contact surface extends at a corresponding acute angle relative to the longitudinal axis and about the axial outer surface portion of the first cover component, thus this contact surface does not have to be part of the cover component. Note that the contact surface relied on is the middle surface portion of the forming tool 10 (Fig. 4B) which is at an acute angle relative to the outer axial surface portion of the cover.

3. Applicant argues on page 12 that Hasegawa does not disclose a flush arrangement after the first longitudinal edge is deformed.

-However, as seen in figure 5 the first longitudinal edge is deformed to be substantially flush and the rejection is upheld.

4. Applicant argues that no projection is disclosed in the Hasegawa or JP patent.

-However, a projection 28 is clearly shown in the Masanobu JP patent in Fig. 3 and this rejection is upheld.

5. Applicant argues on page 13 that no tapering surface in the Hasegawa patent is axial and outer, as claimed, and that the surface 5c is not the contact surface for receiving the deformed portion and the surface 5c tapers toward the inside not the outside, as claimed.

-However, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the tapering portion is axial and outer) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Note that claim 14 recites "the first cover component tapers in an outward direction along the contact surface". Using the broadest reasonable interpretation the portion that tapers can be any part of the cover component. The surface 5c relied on tapers and is along where the contact surface of the forming tool 10 will press against the housing. Regarding the outward direction, note that there is no context for this direction and note that the surface 5c tapers toward an outward direction of the forming tool 10.

6. Applicant argues on page 13 that the Hasegawa lateral staking member 10 is only disclosed to move radially and does not describe an axial force.

-However, note that the acute angle in the middle of the forming tool 10 will inherently result in an axial force against housing when the forming tool 10 is moved radially.

7. Applicant argues on pages 13-14 that the examiner has used improper hindsight from applicant's disclosure for rejecting claims 17 and 18.

-However, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. Applicant argues on page 14 that the function of the Masanobu part 13 is not clear from the drawings or translation.

-However, note that the part 13 meets all the limitations of the claims from the drawings alone where clearly the part 13 encloses a free end edge of the housing.

9. Applicant argues that the Hasegawa patent does not disclose an insertion bevel in combination with a stop (recited in claim 11).

-However, portion 1b of housing 1a acts as an insertion bevel (Fig. 3). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a stop) are not recited in the rejected claim 11. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

10. Applicant argues in paragraph connecting pages 14 and 15 that no evidence of record discloses the relative heights of the component in relation to the deformed portions.

-However, Fig. 5 clearly shows that the cover component has a height at least twice a height of the deformed portion 5a.

11. Applicant argues on page 15 that there is no evidence that supports that it would be obvious to deform the deformed section at an obtuse angle.

-However, note that the acute angle pressed against the axial outer portion of the first end portion of the housing could be easily changed to an obtuse angle and would be an obvious matter of design choice.

12. Applicant argues on page 15 that the Hasegawa deformed sections are spaced from and do not extend directly from the longitudinal ends.

-It is unclear what the applicant means by the deformed sections being "spaced from" the longitudinal ends. Hasegawa clearly shows that the deformed sections extend directly from the longitudinal ends 1a. The limitation "extending directly" is satisfied as long as the deformed portions are connected to the longitudinal ends which is clearly the case and thus the rejection is upheld.